



Kwicksutaineuk/Ah-Kwa-Mish First Nations
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Is Supreme Court of Canada the next step to save wild salmon?

First Nation class-action on impacts of open net-pen salmon farms in British Columbia may head to highest Court

(Alert Bay, May 16, 2012) An appeal to the Supreme Court of Canada may be the next stage in a long running class-action lawsuit focused on the devastation caused by open net-pen salmon farming on the wild salmon in Kwicksutaineuk/Ah-Kwa-Mish First Nation (KAFN)'s Territory around the Broughton Archipelago (British Columbia).

The lawsuit was launched in February 2009. In December 2010, the Honourable Mr. Justice Slade of the Supreme Court of British Columbia ruled in support of the KAFN application for certification of their class-action to hold government accountable for failure to regulate open net-pen salmon farming in their Territories. On May 3, 2012, responding to the Appeal advanced by the Province of British Columbia and Canada, the British Columbia Court of Appeal overturned Justice Slade's decision.

Bob Chamberlin, KAFN Chief and the Representative Plaintiff in the lawsuit, expressed frustration that the future of wild salmon is being sidetracked by government lawyers arguing the definition of "aboriginal collective". He observed, "It is how we organize ourselves. Why argue about this? The focus needs to be on the fish. I will not stand by and see the wild salmon, fundamental to the culture of our people, disappear because of a procedural argument."

"Despite years of intensive efforts by the KAFN and others to engage the B.C. Government and the Government of Canada in improving salmon farming regulations and reducing the industry's impacts on wild salmon, the response continued to be *delay, deny and distract*. Our going to court was necessitated by the fact that both orders of government failed to respond to our concerns. Given the urgent need for action to protect wild salmon, a class-action offers the potential for a comparatively quick hearing of cases through the judicial system."

"When juvenile pink and chum salmon in our Territories attempt to migrate out to the ocean, they face a gauntlet of open net-pen salmon farms densely stocked with non-native Atlantic salmon. These salmon feedlots cause the incubation, amplification and transmission of diseases and parasites to the wild juvenile salmon. The *Cohen Commission of Inquiry into the Decline of the Fraser River Sockeye* shone a pretty bright light on the evidence that was hidden by industry and our governments about the impacts of open net-pens, including introduced diseases. What more are they hiding?"

Chamberlin noted, "Wild salmon are integral to the social, cultural and ecological well-being of our people. Wild salmon have sustained us for over 5,000 years. Despite this, our firsthand knowledge of the impacts of open net-pen salmon farms in our Territories has not been respected and now, our rights are not being respected."

“This is inconsistent with Canada’s international obligations as a supporter of the UN Declaration on the Rights of Indigenous Peoples that promises for shared decision making at both the Federal and Provincial levels. Sadly, it is very consistent with the Harper Government’s recent decision to gut the habitat protection provisions of the *Fisheries Act* and the dismantling of environmental impact assessments in favour of industrializing Canada’s rivers and oceans. It should now be clear to all Canadians that we cannot trust this government to protect our fish and our environment.”

Chief Chamberlin observed that developments on Canada’s east coast illustrate the impacts of open net-pen farms and a lack of consistency in approach by government. “The recent Nova Scotia ISA virus outbreak in open net-pen salmon farms resulted in hundreds of thousands of diseased farmed salmon being destroyed. The Federal government will pay millions of dollars to compensate these salmon farmers. It is insanity when Government fights our efforts to protect wild salmon while they safeguard salmon farmers with taxpayers’ dollars. This money could be used to restore Canada’s Atlantic and Pacific wild salmon and protect our oceans.”

The KAFN is now considering advancing this case to the Supreme Court of Canada. “This issue is not going away and we will not go away.”

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To schedule interviews with Chief Chamberlin or Legal Counsel, contact:

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To view the original KAFN Statement of Claim filed in February 2009, go to:

http://huffstrategy.com/MediaManager/Media/Text/1233780246_Microsoft+Word+-+0052+Pleading+Statement+of+Claim+Chamberlin_2.pdf

To view the December 1, 2010, Decision by the Honourable Mr. Justice Slade, go to:

<http://www.courts.gov.bc.ca/jdb-txt/SC/10/16/2010BCSC1699cor1.htm>

To View the May 3, 2012, Decision by Madame Justice Garson of the British Columbia Court of Appeal, go to:

<http://www.courts.gov.bc.ca/jdb-txt/CA/12/01/2012BCCA0193.htm>